IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 140 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

FARIDAHMED ABDULSAMAD

Appearance:

1. INCOME TAX REFERENCE No. 140 of 1988

MR BB NAIK with MR MANISH R BHATT for Petitioner No. 1

MR RK PATEL for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 01/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the Income Tax Appellate Tribunal, Ahmedabad has referred the following question for our opinion in respect of assessment year 1980-81:-

"Whether, the income of Rs.6290/- from the firm of M/s. Nilam Industries and Weigh Bridge was assessable in the hands of K.S. Lokhandwala Family Trust and not including in the income of the assessee?"

2. We have heard Mr BB Naik learned counsel for the revenue and Mr RK Patel learned counsel for the assessee.

3. In the order giving rise to this reference, the Tribunal has specifically stated that it was following its order dated 20-9-1983 in Appeal No.2220/Ahd/82 and in the statement of the case, the Tribunal has further stated that an elaborate statement of the case for the assessment year 1976-77 was already drawn up for another reference.

4. At the hearing of this reference, Mr BB Naik learned counsel for the revenue invited our attention to the order dated 13-8-2001 in Income Tax Reference No.202 of 1986 wherein this Court declined to answer the question as the facts on record were not clear.

5. Following the said decision, in this case also, we decline to answer the question referred to us.

6. The Reference accordingly stands disposed of with no order as to costs.

(M.S. Shah,J) (D.A. Mehta,J)

zgs/-